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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/098,721	03/18/2002	David Joel Maker		5237

7590

02/12/2004

David Maker  
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EXAMINER
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KIM, TAE JUN

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 02/12/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/098,721

Applicant(s)

MAKER, DAVID JOEL

Examiner

Ted Kim

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rotating *spherical* oscillator must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The disclosed invention is inoperative and therefore lacks utility. Applicant's discussion of the invention including flight by antigravity pulses (see e.g. the specification following equation 20) defies the established laws of physics and raise a serious question of operability.

Furthermore, taking a control volume about Figure C, conservation of momentum shows that for the entire system, as there is no mass transfer through the boundaries of the control volume, there is no net force provided to the system. As the electron cloud goes from cathode to anode, the momentum of the electron cloud leaving the cathode leaves a

reaction force on the rotating cathode. The momentum of the electron cloud hitting the anode results in the same reaction force but in the opposite direction. Consequently, there is no net reaction force *on the system and location of the center of gravity of the system will not change*. Hence, applicant has yet to show how thrust will be achieved for a system.

As the operativeness of applicant's invention is questioned, applicant is invited to send in a working model of his invention (as discussed in the MPEP 608.03) in order to attend to this issue. The working model requirement does not dictate that applicant ship his model to Washington and personally demonstrate it at the Patent & Trademark Office. A working model demonstration can take place anywhere and need not be personally witnessed by Patent Office staff. Such a demonstration could, for example, be witnessed by a third party having no vested interest in the invention and having appropriate scientific credentials; e.g. professor of physics or engineering at a major university. The witness would typically be expected to provide an affidavit attesting to the fact that the demonstrated model accurately conforms to the apparatus shown in the related patent application and operates in the manner disclosed by the applicant. Please note that the U.S. Patent & Trademark Office is not the arbitrator over the acknowledged laws of nature, this is left to the scientific community. Applicant's invention thereof, as has been explained above, cannot operate by the known laws of nature, and hence is deemed inoperative.

3. Claims 1 and 2 are rejected under 35 U.S.C. 101 because the claimed invention is inoperative to produce propulsion by antigravity as disclosed.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1 and 2 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As the invention defies the scientifically accepted laws of physics as detailed above in the section with 35 USC 101, one of ordinary skill in the art would not know how to make or use the invention.

6. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while describing a rotating disk, does not describe a rotating *spherical* oscillator. Disks are not spherical. Either applicant must amend the specification to refer to a spherical oscillator or the claims must be limited to a disk.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1 and 2 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

9. The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to

present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention **was known** or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 2 are rejected under 35 U.S.C. 102(a) as being anticipated by applicant's own public disclosure of the invention at the Feb. 2001 STAIF conference.

12. Claims 1, 2 are rejected under 35 U.S.C. 102(b) as being anticipated by applicant's NASA proposal in 1998 as an offer to sell the invention.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2432716 A (this is a published patent application) in view of the Russian work/experiments discussed in the application or applicant's presentation of February 2001 STAIF conference. FR publication 2432716 A teaches rotating capacitors for producing antigravity (see

abstract). The French publication does not teach using the high voltages of around 512 kV. Applicant admits the work done by Russians with voltage of around 500 kV produced gravity/antigravity pulses and that at the STAIF conference the voltages of 512 kV were disclosed. It would have been obvious to one of ordinary skill in the art to employ high voltages of around 512 kV, as previously done in the art to enhance the production of gravity/antigravity pulses.

### *Response to Arguments*

15. Applicant's arguments filed 7/6/04 have been fully considered but they are not persuasive.

- Applicant's submission of a drawing fails to establish the use of a spherical oscillator. Furthermore, this figure would not be entered due to the entry of new matter not supported by the original specification.
- On the issue of conservation of momentum, the examiner acknowledges that momentum can be expressed as  $pv/c$ . However, this does not appear very relevant to the analysis, as the momentum is still conserved and there is no net momentum change resulting in the thrust.
- Working model requirement. This requirement is being maintained. As applicant has a vested interest in his own patent, the working model requirement requires substantiation by others in the field.
- Enablement requirement. Applicant's requirement that the device be a piezoelectric oscillator – which was never disclosed further compounds the issue of enablement.

Applicant did not originally disclose that the piezoelectric oscillator was a crucial aspect of the invention.

- The Russian publications abstract is silent on the ranges used and applicant's apparent reliance on the piezoelectric oscillator is once again relying on what is new matter. Applicant cannot rely on new matter to distinguish the claims from the art of record.

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Ted Kim whose telephone number is 703-308-2631. The



Examiner can be reached on regular business hours before 5:00 pm, Monday to Thursday and every other Friday.

The fax numbers for the organization where this application is assigned are  
703-872-9306 for Regular faxes and 703-872-9306 for After Final faxes.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on 703-308-2675.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist of Technology Center 3700, whose telephone number is 703-308-0861.

General inquiries can also be directed to Technology Center Customer Service Office at 703-306-5648 or the Patents Assistance Center whose telephone number is 800-786-9199.

Furthermore, a variety of online resources are available at

<http://www.uspto.gov/main/patents.htm>



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February 9, 2004

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